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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,984	08/02/2006	Shigeru Nakamura	F2108.0041	8872
32172 7590 12/26/2008 DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) NEW YORK, NY 10036-2714				
EXAMINER				
TRAN, HOANG Q				
ART UNIT		PAPER NUMBER		
2874				
MAIL DATE		DELIVERY MODE		
12/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,984

Applicant(s)

NAKAMURA, SHIGERU

Examiner

HOANG TRAN

Art Unit

2874

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

AMENDMENT

Receipt of the applicant's amendment filed 8/28/2008 is acknowledged by the examiner. Currently Claims 1-5 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by 6,337,762.

In terms of Claim 1 Ueno teaches a all-optical switch characterized in comprising a first input port to which a non-return-to-zero light signal is inputted (Figure 12 [12]); a second input port to which a carrier light is inputted (Figure 12 [18]); a first (Figure 12 [14]) and second (Figure 12 [15]) light paths; a division unit for dividing the light inputted to said first and second input ports into lights paths (Figure 12 [13]); a first nonlinear optical element [10] provided to said first light path, into which one of the light signals among the light signals divided by said division unit [13] and one of the carrier lights among the carrier lights divided by said division unit are inputted, for causing the refractive index to change in nonlinear fashion according to said one light signal, and shifting the phase of said one carrier light in a nonlinear fashion; a second nonlinear

optical element [11] provided to said second light path, into which the other light signal among the light signals divided by said division unit (Figure 12 [13 or 19]) and the other carrier light among the carrier lights divided by said division unit [13 or 19] are inputted, for causing the refractive index to change in nonlinear fashion according to said other light signal, and shifting the phase of said other carrier light in a nonlinear fashion (Figure 12 [11]); An attenuation unit for attenuation said other light signal inputted to said second nonlinear optical element [42] below said one light signal inputted to said first nonlinear optical element; a delay unit for causing said other light signal to be inputted to said second nonlinear optical element after said light signal is inputted to said first nonlinear optical element [39]; a synthesizes [39] for synthesizing the light that has passed through said first and second light paths; wherein the time by which the inputting of said other signal is delay by said delay unit is shorter than the relaxation time of the nonlinear refractive index change in said first and second nonlinear optical elements [26 and 39].

As for Claim 2 Ueno teaches the device of Claim 1; characterized in that said first and second input ports are arranged so that the propagation direct of said light signal is in the opposite direction from the propagation direct of said carrier light (Figure 17 occurs at circulators 51, 52).

As for Claim 3, Ueno teaches the device of Claim 1; characterized in that said carrier light is unmodulated continuous light (Figure 17 source [31]);

As for Claim 4, Ueno teaches the device of Claim 1, characterized in that said carrier light is a clock light pulse that is synchronized with said light signal (Claim 1).

As for Claim 5, Ueno teaches the device of Claim 1, characterized in that said delay units is formed by making the length of the light path from said division unit to said second nonlinear optical element in said second light path longer than the length of the light path from said division unit to said first nonlinear optical element in said first light path (Col 2 [20-45]).

Response to Arguments

Applicant's arguments filed 8/28/2008 have been fully considered but they are not persuasive.

In regards to applicant argument regarding the prior art of Ueno does not teach a non-return-to-zero light signal is inputted.

Although Ueno does not explicitly teach a non-return-to-zero light signal being inputted into the input port. The examiner has identified this limitation to be a functional characteristic of the light signal during its operation. In this case the input port is capable structurally of handling a RZ or NRZ signal (See MPEP 2114). It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham 2* USPQ2d 1647 (1987).

For the reasons stated above, the Examiner believes that a proper prima-facie case of obviousness has been established. Therefore, the Examiner has made this Office Action final.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HOANG TRAN whose telephone number is (571)272-5049. The examiner can normally be reached on 9:00AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Uyen-Chau Le can be reached on 571-272-2397. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hoang Tran/
Examiner, Art Unit 2874

/Uyen-Chau N. Le/
Supervisory Patent Examiner, Art Unit 2874

Application Number**Application/Control No.**

10/568,984

**Applicant(s)/Patent under
Reexamination**

NAKAMURA, SHIGERU

Examiner

HOANG TRAN

Art Unit

2874